



File Code: 1950

Date: November 8, 2021

Subject: Re-authorization to operate and maintain DellCreek Elk Feedgrounds

Dear Stakeholders,

I have authorized Wyoming Game and Fish Commission (WGFC) to operate and maintain the existing feedground for wintering elk at Dell Creek for up to one year. This authorization includes the maintenance of all structures and facilities with no new ground disturbance authorized. These structures include a hay storage shed, fence, and corral for horses at Dell Creek. This decision is subject to the following conditions:

- This permit shall include all mandatory clauses and appropriate discretionary clauses as determined by the permit administrator.
- This permit authorizes a previously existing use and does not involve new or expanded forms of use.

WGFC proposes to maintain and operate the elk feedground facilities at Dell Creek for 20+ years. FS will complete an Environmental Impact Statement (EIS) taking up to 3 years to decide on an alternative for feeding elk long-term as directed by court order. In the interim the FS will authorize a one-year Special Use Permit (SUP) to operate the feedground facility for elk feeding during winter of 2021-2022 and then anticipates allowing continued use as provide for by 5 U.S.C. Sec 558c while the long-term application is decided.

The FS feels that a no action to permit for one year could lead to an increase in over-wintering mortality on elk. A decrease in survival rates, increase in conflicts with cattle operations, along with disease transmission, could lead to significant adverse effects to elk and cattle. FS must continue to allow feeding short-term until, the EIS determines the appropriate alternative.

In addition to increase mortality and conflicts to cattle operations, elk herds have been habituated to this location for over 40+ years. Any impact to most species or their habitats has already occurred, and the short-term nature of this project (1 year renewal) will not reasonably contribute additional positive or negative impacts (including the potential for disease transmission) to wildlife in the project area.

I have reviewed the public comments and Forest Service specialists input and conclude that the action fits within category 36 CFR 220.6(d)(8) and the analysis shows there are no extraordinary circumstances. Therefore, WGFC operation and maintenance of the existing feedground for wintering elk for a one-year period would not have significant effects. The one-year re-authorization of the existing special use permit allows for the continued management of the elk feedground on a temporary basis while the future management thereof is determined.

CATEGORICAL EXCLUSION

The action authorized in this decision is excluded from any additional requirements of the National



Environmental Policy Act including preparation of a decision memo, an environmental assessment, or an environmental impact statement. The basis for this exclusion is the fact that this use has occurred for decades so the environmental impacts for a year continuation are understood, the lack of any significant issues identified during the scoping process, the determination that there are no extraordinary circumstances affected, and the proposed action's exclusion from additional analysis as defined within 36 CFR 220.6 which excludes the following:

(d)(B) Approval, modification, or continuation of minor, short-term (1 year or less) special uses of National Forest System lands.

Since these are existing facilities and the elk feeding takes place over snow only during times that natural forage is unavailable, the effects to the land are expected to be nominal. The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances related to the proposed action. Extraordinary circumstances are those instances that could result in significant environmental effect to one or more of the following resource conditions, as described in 36 CFR 220.6(b):

- Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.
- Floodplains, wetlands, or municipal watershed
- Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas
- Inventoried road-less areas
- Research natural areas
- American Indians and Alaska Native religious or cultural sites
- Archaeological sites, or historic properties or areas

The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determine whether extraordinary circumstances exist.

PUBLIC INVOLVEMENT

The proposal for the authorization of the Dell Creek feedground on National Forest System lands was provided to outfitter & guides, conservation organizations, Wyoming Game and Fish Department, elected officials, other interested parties, and Forest Service resource specialists via an email and posting to the Bridger-Teton National Forest website. A letter and news release invited the public to comment on WGFC's one-year special use authorization to operate and maintain the feedground. Twenty-one commenters responded to the proposal. No issues were raised through this process that identified any significant impacts to this project. Most Public comments were associated with the long-term effects of elk feedgrounds and the potential impacts from CWD. Next, the Public wants reassurance that the FS will complete an EIS with an alternative that includes fading out elk feedgrounds, as



directed by court order. Other comments were related to Scoping Requirements that did not allow comments in a timely matter. The FS apologizes for the short comment period. The FS's intent was to be transparent moving forward with a one-year permit, while the agency moves towards completing an EIS. There is no formal scoping requirement for CEs and authorization needs to be granted prior to November 10th for winter conditions.

FINDINGS REQUIRED BY OTHER LAWS

The Bridger-Teton National Forest Land and Resource Management Plan (Forest Plan) has been reviewed and a determination has been made that approval of this proposal is consistent with the management direction, standards, and guidelines of the Forest Plan and other applicable laws. Court Order 1:20-cv-00067-NDF was reviewed, and legal counsel was advised.

Dell Creek and Forest Park EIS Status:

The Bridger-Teton has provided a scope of work to the contracting office to seek a 3rd party organization to complete the associated EIS. Bridger-Teton is in ongoing conversations with USGS, WGFC, drafting a Notice of Intent, and preparing for Formal Scoping under NEPA. FS will release a news release on the agency's intention. This project is currently listed on the Forest Services Scheduled of Proposed Actions (SOPA) website.

IMPLEMENTATION

Implementation of this proposed action may begin immediately following this decision.

ADMINISTRATIVE REVIEW OF APPEAL OPPORTUNITIES

Per 36 CFR 215.12(t), this decision is not subject to administrative appeal.

CONTACT PERSON

Further information about this decision can be obtained from:

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Sincerely,



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